

LAW OFFICES OF
WALKUP, MELODIA, KELLY & SCHOENBERGER
A PROFESSIONAL CORPORATION
650 CALIFORNIA STREET, 26TH FLOOR
SAN FRANCISCO, CALIFORNIA 94108-2615
T: (415) 981-7210 · F: (415) 391-6965

MICHAEL A. KELLY (State Bar #71460)
mkelly@walkuplawoffice.com
RICHARD H. SCHOENBERGER (State Bar #122190)
rschoenberger@walkuplawoffice.com
MATTHEW D. DAVIS (State Bar #141986)
mdavis@walkuplawoffice.com
ASHCON MINOIEFAR (State Bar #347583)
aminoiefar@walkuplawoffice.com
SHANIN SPECTER (Pennsylvania State Bar No. 40928)
(Admitted Pro Hac Vice)
shanin.specter@klinespecter.com
ALEX VAN DYKE (CA State Bar No. 340379)
alex.vandyke@klinespecter.com
KLINE & SPECTER, P.C.
1525 Locust Street
Philadelphia, PA 19102
Telephone: (215) 772-1000
Facsimile: (215) 772-1359

ATTORNEYS FOR ALL PLAINTIFFS

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

JANE ROE, an individual; MARY ROE,
an individual; SUSAN ROE, an
individual; JOHN ROE, an individual;
BARBARA ROE, an individual;
PHOENIX HOTEL SF, LLC, a
California limited liability company;
FUNKY FUN, LLC, a California limited
liability company; and 2930 EL
CAMINO, LLC, a California limited
liability company,

Plaintiffs,

v.

CITY AND COUNTY OF SAN
FRANCISCO, a California public entity,

Defendants.

Case No. 4:24-cv-01562-AMO

**PLAINTIFFS' MOTION FOR
ADMINISTRATIVE RELIEF TO
CONSIDER WHETHER
PLAINTIFFS' DECLARATIONS
SHOULD BE FILED UNDER SEAL**

FILED CONCURRENTLY WITH
PLAINTIFFS MOTION FOR
ADMINISTRATIVE RELIEF
REQUESTING PERMISSION TO USE
PSEUDONYM ON PUBLICLY FILED
PLEADINGS

**ASSIGNED FOR ALL PURPOSES
TO THE HONORABLE ARACELI
MARTINEZ-OLGUIN, COURTROOM
10**

Action Filed: 03/14/2024

1 Trial Date: Unassigned

2 PLEASE TAKE NOTICE that, pursuant to local Rule 7-11 and Local Rule 79-
3 5, Plaintiffs file this Administrative Motion to Consider Whether Plaintiffs'
4 Declarations Should be Filed under Seal. Pursuant to relief sought in Plaintiffs'
5 concurrently Administrative Motion to Request Permission to Use a Pseudonym on
6 Publicly Filed Pleadings, the materials sought to be sealed by this administrative
7 motion are the true names of five Plaintiffs. Plaintiffs seek an order permitting them
8 to use pseudonyms in any publicly filed documents, including the complaint.

9 A party seeking to file materials under seal bears the burden to show
10 materials are deserving of confidentiality. (*Foltz v. State Farm Mut. Auto. Ins. Co.*,
11 331 F.3d 1122, 1135 (9th Cir.2005).) Specifically, a party must "articulate compelling
12 reasons supported by specific factual findings that outweigh the general history of
13 access and the public policies favoring disclosure." (*Kamakana v. City and County of*
14 *Honolulu*, 447 F.3d 1172, 1179 (9th Cir.2006) (internal citations omitted).)

15 Five of the Plaintiffs in this case concurrently seek an order permitting them
16 to use pseudonyms for fear of retaliatory physical harm. (See Plaintiffs Motion for
17 Administrative Relief Requesting Permission to Use Pseudonym on Publicly Filed
18 Pleadings ("Administrative Motion to Use Pseudonym"), generally.) Federal courts
19 have allowed plaintiffs to use pseudonyms for various reasons, including when
20 "identification creates a risk of retaliatory physical or mental harm." (*Does I thru*
21 *XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000).)

22 Plaintiffs seek injunctive relief from the City and County of San Francisco's
23 ("City") *de facto* treatment of the Tenderloin as San Francisco's "containment zone"
24 for illegal narcotics activities and the associated crimes and injurious harms. Public
25 disclosure of their names could expose them to physical retaliation by those involved
26 in the illegal narcotics trade. Plaintiffs have a legitimate private interest, namely
27 their safety, in seeking to have their true names filed under seal.

28 In support of that motion, Plaintiffs submit declarations containing their true

names and describing the conditions that cause them to fear retaliatory physical harm. (Declaration of Jane Roe ("Jane Roe Dec."), ¶¶1-13; Declaration of Susan Roe ("Susan Roe Dec."), ¶¶1-7; Declaration of Mary Roe ("Mary Roe Dec."), ¶¶1-7; Declaration of John Roe ("John Roe Dec"), ¶¶1-7; Declaration of Barbara Roe ("Barbara Roe Dec."), ¶¶1-8.) Each plaintiff has expressed trepidation to move forward with their claims if her or his name is to be publicly revealed. (Jane Roe Dec., ¶¶12-13; John Roe Dec., ¶7; Mary Roe Dec., ¶7; Susan Roe Dec., ¶7; Barbara Roe Dec., ¶8.)

Defendant City and County of San Francisco has not agreed to stipulate to the use of pseudonyms and has instead opposed that approach. (See ECF no. 16 and accompanying declaration of Matthew D. Davis.) Thus, Plaintiffs must submit declarations in support of their request to use pseudonyms. (Civil Local Rule 7-11.) Plaintiffs have no less restrictive means to request relief to use pseudonyms, other than by submitting declarations that contain their true names. Redaction and sealing of their true names is the only sufficient means to seek the administrative relief related to their complaint.

Plaintiffs request that should this Court deny this administrative motion to seal Plaintiffs' declarations, then Plaintiffs be given the opportunity to withdraw the declarations that are being provisionally filed under seal. As is set forth in the declarations, some of the individual plaintiffs may decide not to remain involved in this litigation if the Court decides that their true names should be revealed in publicly filed documents. (Jane Roe Dec., ¶¶12-13; John Roe Dec., ¶7; Mary Roe Dec., ¶7; Susan Roe Dec., ¶7; Barbara Roe Dec., ¶8.)

The portions of the documents sought to be sealed are:

DOCUMENT	PORTIONS TO BE FILED UNDER SEAL
Exhibit A to the Declaration of Matthew D. Davis in Support of the Motion to File Under Seal,	Plaintiff Jane Roe's true name on pages 2 and 7.

1	Declaration of Jane Roe	
2	Exhibit B to the	Plaintiff John Roe's true name on pages 2 and 5.
3	Declaration of Matthew D.	
4	Davis in Support of the	
	Motion to File Under Seal,	
	Declaration of John Roe	
5	Exhibit C to the	Plaintiff Susan Roe's true name on pages 2 and 3.
6	Declaration of Matthew D.	
7	Davis in Support of the	
	Motion to File Under Seal,	
	Declaration of Susan Roe	
8	Exhibit D to the	Plaintiff Mary Roe's true name on pages 2 and 3.
9	Declaration of Matthew D.	
10	Davis in Support of the	
	Motion to File Under Seal,	
	Declaration of Mary Roe	
11	Exhibit E to the	Plaintiff Barbara Roe's true name on pages 2 and 5.
12	Declaration of Matthew D.	
13	Davis in Support of the	
	Motion to File Under Seal,	
	Declaration of Barbara Roe	

14
15 Respectfully submitted.

16 Dated: March 21, 2024

WALKUP, MELODIA, KELLY & SCHOENBERGER

17
18 By: /S/ Matthew D. Davis

19 MICHAEL A. KELLY
20 RICHARD H. SCHOENBERGER
21 MATTHEW D. DAVIS
22 ASHCON MINOIEFAR
23 Attorneys for ALL PLAINTIFFS
24
25
26
27
28

PROOF OF SERVICE

**Jane Roe, et al. v. City and County of San Francisco, et al.
Case No. 4:24-cv-01562-AMO**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the county where the mailing took place, My business address is 650 California Street, 26th Floor, City and County of San Francisco, CA 94108-2615.

On the date set forth below, I caused to be served true copies of the following document(s) described as

- PLAINTIFFS' MOTION FOR ADMINISTRATIVE RELIEF TO CONSIDER WHETHER PLAINTIFFS' DECLARATIONS SHOULD BE FILED UNDER SEAL
- DECLARATION OF MATTHEW D. DAVIS IN SUPPORT OF MOTION FOR ADMINISTRATIVE RELIEF TO CONSIDER WHETHER PLAINTIFFS' DECLARATIONS SHOULD BE FILED UNDER SEAL
- [PROPOSED] ORDER FOR PLAINTIFFS MOTION FOR ADMINISTRATIVE RELIEF TO CONSIDER WHETHER PLAINTIFFS' DECLARATIONS SHOULD BE FILED UNDER SEAL

to:

Shanin Specter, Esq.
(Admitted Pro Hac Vice)
Alex Van Dyke, Esq.
KLINE & SPECTER, P.C.
1525 Locust Street
Philadelphia, PA 19102

Co-Counsel for Plaintiffs

Telephone: (215) 772-1000
shanin.specter@klinespecter.com
alex.vandyke@klinespecter.com
escalanteyleana@uclawsf.edu

David Chiu, Esq., City Attorney
Yvonne R. Meré, Esq., Chief Deputy City Attorney
Wayne Snodgrass, Esq., Deputy City Attorney
Tara M. Steeley, Esq., Deputy City Attorney
Thomas S. Lakritz, Esq., Deputy City Attorney
John H. George, Esq., Deputy City Attorney
Kaitlyn M. Murphy, Esq., Deputy City Attorney
Deputy City Attorneys
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682

Counsel for City and County of San Francisco

Steeley: (415) 554-4655
Lakritz: (415) 554-4628
George: (415) 554-4223
Murphy: (415) 554-6762
Facsimile: (415) 554-4699
tara.steeley@sfcityatty.org
tom.lakritz@sfcityatty.org
john.george@sfcityatty.org
kaitlyn.murphy@sfcityatty.org

BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

1 Participants in the case who are not registered CM/ECF users will be served by mail
2 or by other means permitted by the court rules.

3 I declare under penalty of perjury under the laws of the United States of
4 America that the foregoing is true and correct and that I am employed in the office of
5 a member of the bar of this Court at whose direction the service was made.

6 Executed on March 21, 2024, at San Francisco, California.

7 

8

Kirsten Benzien